

REMARKS

The following remarks are submitted to be fully responsive to the non-final Official Action dated August 11, 2009. This response is thus timely submitted within the three-month shortened statutory period for response. Should any fees be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

Initially it is noted that within the above-noted Office Action, the earlier election portion of an Election/Restriction requirement has been withdrawn. The Examiner deems that the species as have been set out within dependent claims 15 and 16 appear to be obvious variants. Applicants do not concede that these variations as are related to means for delivering a pressurized blood source are obvious variants, and instead have canceled dependent claims 15 and 16.

Also, an objection has been made to the use in many of the dependent claims for reciting "fluid" instead of "liquid" as recited within the independent claims 1 and 32. Correction has been made by the amendments to the claims as set out above. Accordingly, withdrawal of the claim objections is respectfully requested.

Claims 1, 2, 4-7, and 9-12 have been rejected under 35 U.S.C. 102(b) as being anticipated by Gifford, III et al. (US 5,695,504). It is submitted that the above amendments to independent claim 1 overcomes this rejection. Claim 1 now recites the advancing step as comprising the act of advancing the tubular member distal region into the blood vessel through the incision and then expanding the tubular wall and the lumen of the tubular member distal region radially outward within the blood vessel. That is, in addition to inserting a tubular member into the conduit and advancing the tubular member into the blood vessel, a step of expanding the tubular wall and the size of the lumen defined by that tubular wall radially outward and within the blood vessel is recited.

The Gifford, III et al reference is deficient on this recitation (noted by the Examiner with respect to an aspect of dependent claim 8) in that the device of the Gifford, III et al reference utilizes a balloon that is distinctly expanded without regard to the wall that defines the lumen and the lumen itself. The lumen defining wall stays the same while a balloon expands around it.

The Examiner relies upon the Booth reference in rejecting dependent claim 8 because the balloon of the Booth reference is expanded by the fluid that is supplied through the device

lumen, as potentially relevant to the limitations of claim 8. However, with respect to the amended limitation of claim 1 that the lumen defining tubular wall and its lumen are expanded, it is submitted that the balloon of the Booth reference is also deficient and cannot overcome the deficiencies of the Gifford, III et al reference. Accordingly allowance of independent claim 1 along with dependent claims 2-6, 8-14, and 17-20 is believed proper and is respectfully requested.

Likewise, independent claim 32 is amended with respect to the advancing step. Specifically, the advancing step is recited as comprising the act of advancing the tubular member distal region into the blood vessel through the blood vessel proximal end followed by expanding the tubular wall and the lumen of the tubular member distal region radially outward within the blood vessel. For at least the same reasons stated above, it is submitted that independent claim 32 and its dependent claims 33-37 and 39-42 are allowable over the prior art of record. Allowance of these claims is also respectfully requested.

Lastly, the noted allowable subject matter of dependent claim 13 has been incorporated with the limitations of previously pending claim 1 and presented as new claim 43. Allowance of claim 43 is also believed to be proper and is respectfully requested.

Conclusion

Applicant submits that claims 1, 2-6, 8-14, 17-20, 33-37 and 39-43 are currently in condition for allowance, a notice of which is earnestly solicited. If the Examiner finds any issue remaining after consideration of this response, the Examiner is invited to contact the undersigned, at the Examiner's convenience, in order to expedite any remaining prosecution.

Respectfully Submitted,

By:



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Dated: November 12, 2009